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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/935,116	09/22/1997	DAVID W. DEATON	26656-0238	8230
31518	7590	02/17/2006		
NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304			EXAMINER ALVAREZ, RAQUEL	
			ART UNIT	PAPER NUMBER
			3622	
DATE MAILED: 02/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/935,116

Applicant(s)

DEATON, DAVID W.

Examiner

Raquel Alvarez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to communication filed on 12/8/2005.
2. Claims 8-16 are presented for examination.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Nichtberger et al. (4,882,675 hereinafter Nichtberger).

With respect to claims 8-15, Nichtberger teaches a system for accumulating customer transaction data at the point of sale in a retail establishment and for effectuating customer promotion (abstract). A terminal for entering unique customer identification codes from customer identification presented at the point of sale in a retail transaction (col. 17, lines 30-48); means for allowing entry of customer transaction data (col. 17, lines 49-60); a processor and a memory responsive to said terminal and said means allowing entry for creating a database for a plurality of the store's customers' transaction data from prior shopping visits, such that data regarding individual customer's prior transactions are stored in association with said individual customer's unique identification code (col. 12, lines 16-32); circuitry responsive to said processor, memory, and a database for generating a customer information response signal at the point of sale during said individual customer's transaction in said retail establishment

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upon detection of a unique identification code of said individual customer (col. 11, lines 46-50 and col. 18, lines 49-61); said signal being related to said individual customer's transaction data in shopping visits prior to the current shopping visit (col. 17, lines 49-61); and said signal providing information at said point of sale terminal derived from said database and useful for effectuating targeted customer promotion (col. 17, lines 49-61).

Claim 16 differs from claims 8-15 in that it further recites that the entering step into a point-of-sale terminal is an account number from a payment instrument presented by a customer. Nichberger teaches that a credit card with a magnetic stripe can be used to activate the system (col. 19, lines 63 to col. 20, lines 1-7).

Response to Arguments

4. Applicant's arguments with respect to claims 8-19 have been considered but are moot in view of the new ground(s) of rejection.

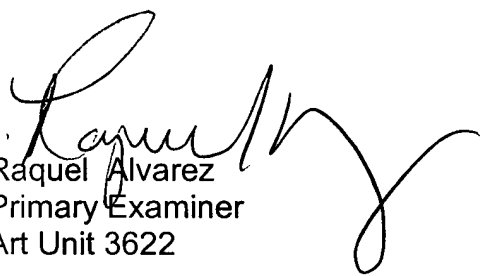
Point of contact

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raquel Alvarez
Primary Examiner
Art Unit 3622

R.A.
2/13/2006